

ORDINANCE NO. _____, SERIES 2007

AN ORDINANCE RE-ENACTING SECTIONS 130.01, 130.02 AS AMENDED, 130.98, AND 130.99(A) OF LOUISVILLE METRO CODE OF ORDINANCES (LMCO), AND REPEALING SECTIONS 130.30, 130.31, 130.32, 130.40, 130.41, 130.42, 130.90, 130.91, 130.92, AND 130.99(B) REGARDING GENERAL PROVISIONS.

Sponsored By: Councilmen Kramer, Downard and Blackwell

BE IT ORDAINED BY THE LEGISLATIVE COUNCIL OF THE LOUISVILLE/JEFFERSON COUNTY METRO GOVERNMENT (THE COUNCIL) AS FOLLOWS:

SECTION I: Pursuant to the provisions of KRS 67C.115(2), LMCO Sections 130.01, 130.02 as amended, 130.98, and 130.99(A) are hereby reenacted, and Sections 130.30, 130.31, 130.32, 130.40, 130.41, 130.42, 130.90, 130.91, 130.92, and 130.99(B) are hereby repealed as follows:

§ 130.01 WEARING OF MASKS.

(A) *Definitions.* For the purpose of this ordinance, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

(1) ***MASK.*** Any mask, device or hood whereby any portion of the face is so hidden or covered as to conceal the identity of the wearer.

(2) ***PUBLIC PLACE.*** All walks, alleys, boulevards, avenues, lanes, roads, highways or other ways or thoroughfares dedicated to public use or owned or maintained by public authority; all grounds and buildings owned, leased by, operated or maintained by public authority; all buildings owned, leased or operated for the use of organizations enjoying all tax-exempt privileges as a charitable use.

(B) *Wearing of mask in a public place.* No person shall, while wearing any mask whereby a substantial portion of the face is hidden or covered so as to conceal the identity of the wearer, enter, be or appear in any public place within Jefferson County.

(C) *Exemptions.* The following are exempted from the provisions of subsection (B) of this ordinance:

- (1) Any person under 16 years of age.
- (2) Any person wearing traditional holiday costumes in season.
- (3) Any person using masks in theatrical productions including use in Mardi Gras celebrations and masquerade balls.
- (4) Any person lawfully engaged in trades or employment or in sporting activity where a mask or facial covering is worn for the purpose of ensuring the physical safety of the wearer or because of the nature of the occupation, trade or professional or sporting activity.
- (5) Any person wearing a gas mask in drills, exercises or emergencies.
- (6) Any person engaging in an activity such that the wearing of the mask is protected by the Constitution of the Commonwealth of Kentucky or the United States Constitution.

§ 130.02 FORFEITED PROPERTY.

(A) The Chief of the ~~Division of Police~~ Metro Police Department [Hereafter, the “Chief”] or his/her representative is authorized, on behalf of the Metro Government, to petition in Jefferson Circuit or District Courts for the receipt of property subject to forfeiture pursuant to state law. All property obtained by

forfeiture may be retained by the ~~Division of Police~~ Metro Police Department and shall be used and disposed of as is all other Jefferson County property, unless otherwise provided by statute, ordinance, or resolution.

(B) The ~~Division of Police~~ Metro Police Department shall maintain a current list which sufficiently describes each item of property obtained by forfeiture, including, when available, the make, model, year, manufacturer's identification or serial number, estimated fair market value, and intended use or disposition of the property. Before any property is used for official purposes, the Chief ~~should make sure~~ shall verify that, where necessary, all property is sufficiently listed for purposes of insurance.

(C) Proceeds from the sale of any property obtained through forfeiture shall be deposited as follows:

(1) The proceeds from the sale of property obtained through forfeiture pursuant to KRS 500.090 shall be deposited in the general fund of the Metro Government.

(2) Pursuant to state law, proceeds from the sale of property obtained through forfeiture pursuant to KRS ~~218A.270~~ 218A.435 shall be paid to the State Treasurer for deposit to the general fund after the payment of all proper expenses of the proceedings for forfeiture and sale, including expenses of seizure, maintenance of custody, advertising, and court costs.

(3) Pursuant to state law, moneys forfeited pursuant to the Kentucky Penal Code shall be paid to the state.

(4) Moneys forfeited pursuant to ~~218A.270~~ 218A.435 shall be deposited into a Narcotics Investigation Fund of the Metro Government, to be appropriated as deemed necessary by the Metro Council to the ~~Jefferson County~~ Metro Police Department for official use. Moneys in this fund shall not lapse, but shall continue in the fund until appropriated as herein provided.

~~§ 130.30 REGISTRATION WITH CHIEF OF POLICE.~~

~~Every person who has been convicted in any Federal Court or the court of any state within ten years prior to the effective date of this section, passed July 14, 1937, of any crime punishable by imprisonment for one year or more by the state or provision of law under which the conviction was had, or who comes into Jefferson County from any point outside of the county, whether in transit through the county or otherwise, shall report to the Chief of Police within 48 hours after his or her arrival within the boundaries of Jefferson County, and shall furnish to the Chief of Police: a written statement signed by the person; the true name of the person and each other name or alias by which the person is or has been known; a full and complete description of himself or herself; the name of each crime of which he or she has been convicted in accordance with the above together with the name of the place where the crime was committed, the name under which he or she was convicted, and the date of the conviction thereof; the name if any, and the location of each prison, reformatory, or other penal institution in which he or she has been confined as punishment therefor; the location or address of his or her residence, stopping place, or living quarters in Jefferson County, and each one thereof, if any, or the address or location of his~~

~~or her intended residence, stopping place, or living quarters therein, and each one thereof, with a description of the character of each such place, whether hotel, apartment house, dwelling house, or otherwise, giving the street number thereof, if any, or such description of the address or location thereof as will so identify the same as to make it possible of location; and the length of time for which he or she expects or intends to reside within the territorial boundaries of Jefferson County.~~

~~§ 130.31 EXCEPTION.~~

~~Nothing in this subchapter shall be construed to apply to any person who has or shall have received a full pardon for each such crime whereof he or she was convicted, nor to any person who is or shall be on parole or probation under the laws of the State of Kentucky or whose parole or probation period under the laws of the state has expired without any revocation of such parole or probation having been made.~~

~~§ 130.32 CONFIDENTIAL NATURE OF RECORD.~~

~~The records, information, and addresses required by §§ 130.30 and 130.31 shall constitute a part of the records of the Police Division and shall not be open to any person except a regular acting police officer of the Louisville/Jefferson County Police Department, or on the written request of any person who has registered herein, and then only open to such person or his or her agent to the extent that he or she or his or her agent may examine the information that he or she had furnished in accordance with the provisions of §§ 130.30 and 130.31.~~

~~§ 130.40 PURPOSE.~~

~~The Metro Council declares that it serves a public purpose and is of benefit to Jefferson County to indemnify those needy residents of Jefferson County who are innocent victims of law enforcement and who suffer financial loss because of property damage as a consequence of the Metro Government's direct action.~~

~~§ 130.41 ELIGIBILITY.~~

~~Anyone who meets all of the following criteria shall be eligible for an award under this subchapter:~~

- ~~(A) Is a resident Jefferson County.~~
- ~~(B) Has suffered property damage as a result of direct action by the Department of Safety in enforcing a criminal law, statute, or ordinance.~~
- ~~(C) Is not criminally responsible for the crime on which a claim is based, or an accomplice of such person, or a member of the family of such person.~~
- ~~(D) Has no civil remedy against the Metro Government.~~
- ~~(E) Has no civil remedy against any third party for the financial loss suffered.~~
- ~~(F) Has claimed the award within 90 days of the incident on which the claim is based.~~

~~§ 130.42 ADMINISTRATION AND FUNDING.~~

~~(A) The Jefferson County Attorney's Office shall administer this subchapter and is specifically authorized, empowered, and directed to negotiate,~~

~~settle, and pay reasonable awards to persons eligible under this subchapter. However, no such award shall be for more than \$1,000.~~

~~(B) The Jefferson County Attorney is empowered and directed to draw on funds appropriated for payment of claims and judgments to make awards under this subchapter, and the authority for so doing is conferred by the Metro Council on the Jefferson County Attorney's office within the limitations as herein prescribed, the same as if each individual payment or settlement had been specifically authorized and approved by the Metro Council.~~

~~(C) A determination by the Jefferson County Attorney's office that a person is ineligible for an award under this subchapter shall be final.~~

~~(D) The Jefferson County Attorney may establish such rules and regulations as are necessary for the efficient administration of this subchapter.~~

~~§ 130.90 USE OF CITATION FORM.~~

~~(A) Whenever any person is arrested for the violation of a misdemeanor, the arresting officer, where he or she has reasonable grounds to believe that the person cited will appear to answer the charge or charges, shall employ the following procedure unless the circumstances strongly indicate that a physical arrest is necessary.~~

~~(B) The violator shall be given a copy of the notice which shall specify the charges against him or her and the date he or she is to appear in District Court to answer to those charges; the officer shall obtain from the violator his or her signed promise to so appear in District Court; and the officer shall send one~~

~~copy of the notice signed by the violator to the District Court. This procedure may be used for those misdemeanors committed in the officer's presence which are:~~

~~(1) Violations under the Kentucky Revised Statutes where the District Court would have jurisdiction of the action;~~

~~(2) Prohibited activities as provided in Titles IX and XIII of this code except for those violations where the pertinent chapter provides specific complaint and enforcement procedures.~~

~~(C) The citation form used shall be that provided by the Secretary of the Cabinet for Public Protection.~~

~~§ 130.91 APPLICABILITY TO MINORS AND ADULTS.~~

~~§ 130.92 FAILURE TO APPEAR.~~

~~In the event the violator fails to appear in District Court on the date specified and on the filing of an affidavit by the officer or officers familiar with the facts of the alleged violation, the Clerk of the District Court, if the affidavit is sufficient, shall cause a warrant to be issued for the arrest of the violator.~~

~~§ 130.98 SEVERABILITY.~~

~~If any provision of this chapter as now or later amended or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions that can be given effect without the invalid provision or application.~~

~~§ 130.99 PENALTY.~~

~~(A) Any person who violates § 130.01 shall be guilty of a misdemeanor and shall be fined not more than \$100 and/or imprisoned for no longer than 50 days.~~

~~(B) (1) The penalty for failure to appear on a signed promise in violation of §§ 130.90 through 130.92 is \$20, which may be imposed in addition to any other fine assessed for the violation.~~

~~(2) Any person who violates any provision of §§ 130.30 through 130.32 shall be fined not more than \$100 or imprisoned not more than 30 days. Each separate day or any portion thereof during which any violation of this section occurs, and each failure, neglect, or refusal to make any such report from and after the expiration of the time specified in this section within which the report must be made shall constitute a separate offense.~~

SECTION II: This Ordinance shall take effect upon its passage and approval.

Kathleen J. Herron
Metro Council Clerk

Rick Blackwell
President of the Council

Jerry E. Abramson
Mayor

Approval Date

APPROVED AS TO FORM AND LEGALITY:

Irv Maze
Jefferson County Attorney

BY: _____
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